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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,005	01/14/2005	Kevin Lowe	27726-97775	4923

23644 7590 02/05/2009
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EXAMINER

ALEXANDER, REGINALD

ART UNIT	PAPER NUMBER
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3742

NOTIFICATION DATE	DELIVERY MODE
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02/05/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

Office Action Summary	Application No. 10/522,005	Applicant(s) LOWE, KEVIN	
	Examiner Reginald L. Alexander	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-24, 27-30, 32-35, 37 and 39-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-24, 27-30, 32-35, 37 and 39-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 12-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Koga et al.

There is disclosed in Koga brewing device comprising: a housing 2 defining a water reservoir chamber; a water heater 8 within the chamber; an inlet port 10; an outlet port 7; a baffle 11 having a wall defining a cavity, an upper edge of the wall defining a mouth for receiving water from the chamber, the cavity communicating directly with the outlet port through the housing in a lower portion of the cavity; a tube 3 extending from the outlet port; a receiver 16 for receiving heated water and containing a beverage brewing substance; an inlet control device 9; and an outlet control device 1.

In regards to the recitation in the claim that “water must pass from the chamber through the mouth to flow to the cavity”, such a limitation is functional and fails to further limit the claims structurally. It is apparent that any water above the level of the baffle must pass from the chamber to the cavity through the mouth of the wall.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3742

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 17, 19-24, 27, 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koga et al. in view of Knepler et al.

Knepler discloses, in a brewing device, the use of a controller 28, a controllable valve 48 coupled to an inlet of a water reservoir, and a controllable valve 32 coupled to an outlet of the reservoir.

It would have been obvious to one skilled in the art to provide the brewing device of Koga with the controller and controllable inlet and outlet valves taught in Knepler, in order to provide automatic dispersal of hot water to the receiver and automatic replenishing of cold water to the reservoir.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koga in view of Knepler as applied to claim 20 above, and further in view of Beaulieu et al.

Beaulieu teaches that it is known in the art to locate the inlet port at an upper portion of a water reservoir.

It would have been obvious to one skilled in the art to modify the reservoir inlet of Koga, as modified by Knepler, with that taught in Beaulieu, in order to provide an alternative location for the reservoir inlet.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koga in view of Knepler as applied to claim 20 above, and further in view of Patel.

Patel discloses that it is known in the art to provide a dispensing faucet in communication with an outlet port or a reservoir.

It would have been obvious to one skilled in the art to provide the device of Koga, as modified by Knepler, with the faucet taught in Patel, in order to allow dispensing of water from the reservoir to a user.

Claims 33-35, 37, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koga et al. in view of Knepler et al. and Patel.

Koga, as discussed above, discloses all of the claimed subject matter except for a controller, controllable inlet and outlet valves and a dispensing faucet.

Knepler, as discussed above, discloses the use of a controller and controllable inlet and outlet valves.

It would have been obvious to one skilled in the art to provide the brewing device of Koga with the controller and controllable inlet and outlet valves taught in Knepler, in order to provide automatic dispersal of hot water to the receiver and automatic replenishing of cold water to the reservoir.

Patel, as discussed above, discloses the use of a dispensing faucet.

It would have been obvious to one skilled in the art to provide the device of Koga, as modified by Knepler, with the faucet taught in Patel, in order to allow dispensing of water from the reservoir to a user.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koga in view of Knepler and Patel as applied to claim 33 above, and further in view of Beaulieu et al.

Beaulieu teaches that it is known in the art to locate the inlet port at an upper portion of a water reservoir.

It would have been obvious to one skilled in the art to modify the reservoir inlet of Koga, as modified by Knepler and Patel, with that taught in Beaulieu, in order to provide an alternative location for the reservoir inlet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Reginald L. Alexander/
Primary Examiner
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